

DoD—Department of Defense  
 DSM-III—Diagnostic and Statistical Manual of Mental Disorders (Third Edition)  
 ECHO—Extended Care Health Option  
 EEG—Electroencephalogram  
 EST—Electroshock Therapy  
 FAR—Federal Acquisition Regulation  
 FEHBP—Federal Employees Health Benefits Program  
 FMCRA—Federal Medical Care Recovery Act  
 FR—Federal Register  
 HBA—Health Benefits Advisor  
 HL—Hearing Threshold Level  
 Hz—Hertz  
 ICD-9-CM—International Classification of Diseases, 9th Revision, Clinical Modification  
 ICU—Intensive Care Unit  
 IQ—Intelligence Quotient  
 JCAH—Joint Commission on Accreditation of Hospitals  
 L.P.N.—Licensed Practical Nurse  
 L.V.N.—Licensed Vocational Nurse  
 MBD—Minimal Brain Dysfunction  
 MCO—Marine Corps Order  
 M.D.—Doctor of Medicine  
 MIA—Missing in Action  
 NATO—North Atlantic Treaty Organization  
 NAVMILPERSCOMINST—Navy Military Personnel Command Instruction  
 NAVPERS—Navy Personnel  
 NOAA—National Oceanic and Atmospheric Administration  
 OCHAMPUS—Office of Civilian Health and Medical Program of the Uniformed Services  
 OCHAMPUSEUR—Office of Civilian Health and Medical Program of the Uniformed Services for Europe  
 OCHAMPUSPAC—Office of Civilian Health and Medical Program of the Uniformed Services for the Pacific Area  
 OCHAMPUSSO—Office of Civilian Health and Medical Program of the Uniformed Services for the Southern Hemisphere  
 OMB—Office of Management and Budget  
 PKU—Phenylketonuria  
 R.N.—Registered Nurse  
 RTC—Residential Treatment Center  
 SNF—Skilled Nursing Facility  
 STF—Specialized Treatment Facility  
 U.S.C.—United States Code  
 USPHS—U.S. Public Health Service

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## PART 202—RESTORATION ADVISORY BOARDS

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AUTHORITY: 5 U.S.C. 551 *et seq* and 10 U.S.C. 2705

SOURCE: 71 FR 27618, May 12, 2006, unless otherwise noted.

### Subpart A—General Requirements

#### § 202.1 Purpose, scope, definitions, and applicability.

(a) *Purpose.* The purpose of this part to establish regulations regarding the scope, characteristics, composition, funding, establishment, operation, adjournment, and dissolution of Restoration Advisory Boards (RABs).

(b) *Purpose and scope of responsibilities of RABs.* The purpose of a RAB is to provide:

(1) An opportunity for stakeholder involvement in the environmental restoration process at Department of Defense (DoD) installations. Stakeholders are those parties that may be affected by environmental restoration activities at the installation.

(2) A forum for the early discussion and continued exchange of environmental restoration program information between DoD installations, regulatory agencies, tribes, and the community.

(3) An opportunity for RAB members to review progress, participate in a dialogue with, and provide comments and advice to the installation's decision makers concerning environmental restoration matters. Installations shall

give careful consideration to the comments provided by the RAB members.

(4) A forum for addressing issues associated with environmental restoration activities under the Defense Environmental Restoration Program (DERP) at DoD installations, including activities conducted under the Military Munitions Response program (MMRP) to address unexploded ordnance, discarded military munitions, and the chemical constituents of munitions. Environmental groups or advisory boards that address issues other than environmental restoration activities are not governed by this regulation.

(c) *Definitions.* In this section:

(1) *Community RAB member* shall mean those individuals identified by community members and appointed by the Installation Commander to participate in a RAB who live and/or work in the affected community or are affected by the installation's environmental restoration program.

(2) *Environmental restoration* shall include the identification, investigation, research and development, and cleanup of contamination from hazardous substances, including munitions and explosives of concern, and pollutants and contaminants.

(3) *Installation* shall include active and closing DoD installations and formerly used defense sites (FUDS).

(4) *Installation Commander* shall include the Commanding Officer or the equivalent of a Commanding Officer at active installations; the Installation Commander or other Military Department officials who close the facility and are responsible for its disposal at Base Realignment and Closure (BRAC) installations; or the U.S. Army Corps of Engineers Project Management District Commander at FUDS.

(5) *Public participants* shall include anyone else who may want to attend the RAB meetings, including those individuals that may not live and/or work in the affected community or may not be affected by the installation's environmental restoration program but would like to attend and provide comments to the RAB.

(6) *Stakeholders* are those parties that may be affected by environmental restoration activities at an installation, including family members of military

personnel and civilian workers, local and state governments and EPA for NPL properties, tribal community members and indigenous people, and current landowners, as appropriate.

(7) *Tribes* shall mean any Federally-recognized American Indian and Alaska Native government as defined by the most current Department of Interior/Bureau of Indian Affairs list of tribal entities published in the FEDERAL REGISTER pursuant to Section 104 of the Federally Recognized Tribe Act.

(8) *RAB adjournment* shall mean when an Installation Commander, in consultation with the Environmental Protection Agency (EPA), state, tribes, RAB members, and the local community, as appropriate, close the RAB based on a determination that there is no longer a need for a RAB or when community interest in the RAB declines.

(9) *RAB dissolution* shall mean when an Installation Commander, with the appropriate Military Component's Environmental Deputy Assistant Secretary's approval, disbands a RAB that is no longer fulfilling the intended purpose of advising and providing community input to an Installation Commander and decision makers on environmental restoration projects. Installation Commanders are expected to make every reasonable effort to ensure that a RAB performs its role as effectively as possible and a concerted attempt is made to resolve issues that affect the RAB's effectiveness. There are circumstances, however, that may prevent a RAB from operating effectively or fulfilling its intended purpose.

(d) *Other public involvement activities.* A RAB should complement other community involvement efforts occurring at an installation; however, it does not replace other types of community outreach and participation activities required by applicable laws and regulations.

(e) *Applicability of regulations to existing RABs.* The regulations in this part apply to all RABs regardless of when the RAB was established.

(f) *Guidance.* The Office of the Deputy Under Secretary of Defense for Environment shall issue guidance regarding

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the scope, characteristics, composition, funding, establishment, operation, adjournment, and dissolution of RABs pursuant to this rule. The issuance of any such guidance shall not be a precondition to the establishment of RABs or the implementation of this part.

[71 FR 27617, May 12, 2006; 71 FR 30719, May 30, 2006]

### § 202.2 Criteria for establishment.

(a) *Determining if sufficient interest warrants establishing a RAB.* A RAB should be established when there is sufficient and sustained community interest, and any of the following criteria are met:

(1) The closure of an installation involves the transfer of property to the community,

(2) At least 50 local citizens petition the installation for creation of a RAB,

(3) Federal, state, tribal, or local government representatives request the formation of a RAB, or

(4) The installation determines the need for a RAB. To determine the need for establishing a RAB, an installation should:

(i) Review correspondence files,

(ii) Review media coverage,

(iii) Consult local community members,

(iv) Consult relevant government officials, and

(v) Evaluate responses to communication efforts, such as notices placed in local newspapers and, if applicable, announced on the installation's Web site.

(b) *Responsibility for forming or operating a RAB.* The installation shall have lead responsibility for forming and operating a RAB.

(c) *Converting existing Technical Review Committees (TRCs) to RABs.* In accordance with 10 U.S.C. 2705(d)(1), a RAB may fulfill the requirements of 10 U.S.C. 2705(c), which directs DoD to establish TRCs. DoD recommends that, where TRCs or similar advisory groups already exist, the TRC or similar advisory group be considered for conversion to a RAB, provided there is sufficient and sustained interest within the community.

[71 FR 27617, May 12, 2006; 71 FR 30719, May 30, 2006]

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### § 202.3 Notification of formation of a Restoration Advisory Board.

Prior to establishing a RAB, an installation shall notify potential stakeholders of its intent to form a RAB. In announcing the formation of a RAB, the installation should describe the purpose of a RAB and discuss opportunities for membership.

### § 202.4 Composition of a RAB.

(a) *Membership.* At a minimum, each RAB shall include representatives from DoD and the community. RAB community membership shall be well balanced and reflect the diverse interests within the local community.

(1) *Government representation.* The RAB may also include representatives from the EPA at the discretion of the Regional Administrator of the appropriate EPA Regional Office, and state, tribal, and local governments, as appropriate. At closing installations where BRAC Cleanup Teams (BCT) exist, representatives of the BCT may also serve as the government representative(s) of the RAB. The Department encourages individuals and agencies involved with BRAC to participate in RABs at closing installations.

(2) *Community representation.* Community RAB members should live and/or work in the affected community or be affected by the installation's environmental restoration program. While DoD encourages individual tribal members to participate on RABs, RABs in no way replace or serve as a substitute forum for the government-to-government relationship between DoD and Federally-recognized tribes.

(i) To support the objective selection of community RAB members, installations will use a selection panel comprised of community members to nominate community RAB members. The Installation Commander, in consultation with the state, tribal, and local governments and EPA, as appropriate, will identify community interests and solicit names of individuals who can represent these interests on the selection panel. The panel will establish the procedures for nominating community RAB members, the process for reviewing community interest, and criteria for selecting community RAB members. The panel will transmit the list of